

This letter discusses the imposition of local taxes and the use of the ST-2 Multiple Site Form. See 86 Ill. Adm. Code 270.115 regarding jurisdiction questions. (This is a GIL.)

September 8, 2005

Dear Xxxxx:

This letter is in response to your letter dated May 23, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are in need of a determination of our tax liability within your state. There has been some confusion as to what tax return to file. Recently we had a discussion with PERSON who advised us to no longer file the ST-2 schedule. We have now received a notice of tax liability for current periods in regards to not having submitted the ST-2 schedule.

Our business sales liquid co2 and rents co2 systems to wholesale customers. Most of the tax we receive is from the rental of co2 tanks to customers within the city limits of CITY. We also receive sales tax from customers who do not provide us with resale certificates. We have no retail locations. The locations that we do have in Illinois are for storage of our trucks and receiver tanks where we refill our trucks with liquid co2. All orders are placed through our corporate headquarters in STATE. All deliveries are dispatched through the STATE office as well.

Based off of the above information, please advise us on our tax liability and what forms we need to file. If you need any additional information, please contact the undersigned directly.

In general, the imposition of the various local sales taxes in Illinois takes effect when “selling” occurs in a jurisdiction imposing a tax. The Department’s opinion is that the most important element of selling is the seller’s acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115(b), enclosed. The tax rate is fixed by the location of the seller, not the delivery location. The fact that the item being sold is shipped from out-of-State or from another Illinois location is immaterial for purposes of local taxes if the sale occurs through order acceptance in an Illinois jurisdiction imposing a local tax. For these transactions the local tax will be incurred.

If a purchase order is accepted outside the State, but the property being sold is located in an inventory of the retailer which is located in an Illinois jurisdiction that has imposed a local tax (see, for example, Section 270.115(b)(3)), then the location of the property at the time of sale will determine where the seller is engaged in business for the purpose of determining the imposition of applicable local sales taxes. In situations in which the retailer has nexus, but both the purchase order acceptance and the location of the property being purchased are outside of the State of Illinois, such sales would only be subject to the Illinois Use Tax at the rate of 6.25%.

Although the regulation cited above (86 Ill. Adm. Code 270.115) deals with the municipal home rule taxes, the principles outlined in this regulation apply to all local taxes administered by the Department.

The ST-2 Multiple Site Form is used for reporting multiple sites. Retailers making sales from more than one site must complete the ST-2 form and attach it to the Form ST-1, Sales and Use Tax Return that they file.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department’s Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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Enc.